

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of
Robert Adler
Respondent

Civil Citation No. 63813
506 Sudbrook Lane

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on July 29, 2009 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 101, 102.1; Zoning Commissioner's Policy Manual (ZCPM) for illegal home occupation; section 101, 102.1 for storage of contractor's equipment on residential property known as 506 Sudbrook Lane, 21208.

On July 6, 2009, pursuant to Baltimore County Code §3-6-205, Inspector Ryan Fisher issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$1,500.00 (one thousand five hundred dollars).

The following persons appeared for the Hearing and testified: Robert Adler, Respondent represented by Donna King, Esquire, Bill Traband, neighbor, Mark Plogman representing the Sudbrook Civic Association and Gary Freund, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. This Citation was issued on July 6, 2009. No Correction Notice was issued.

B. Inspections were made starting on April 1, 2009 in response to complaints received alleging that Respondent was improperly operating a landscaping business from this residential property, and complaining about commercial vehicles and storage of equipment and materials. Inspector Ryan Fisher testified that he spoke with Respondent Robert Adler on April 1, 2009 and discussed the complaints and applicable regulations. He testified that Respondent Adler explained that equipment and materials at the site were for work on this property. Respondent is gutting rooms in the house and doing renovations, and is also using his landscaping company to do multiple projects on the grounds of his property. Inspector Fisher testified that he reopened the case in July 2009 after receiving additional complaints and observed commercial equipment, a tractor, trailers, a dumpster, a tent, and limbs and branches.

C. Mr. Mark Plogman is a member of the Board of Directors of the Sudbrook Park community association. Mr. Bill Traband is a neighbor. Neighbors are concerned about traffic, equipment, and apparent storage of commercial equipment and materials. A complaint letter in the file from the Chair of the Zoning Committee for Sudbrook Park, Inc. states that Respondent frequently has two or more landscaping trucks with open trailers stored overnight and also stores trailers at the back of the yard. The letter states that there are complaints of loud noises that sound like blade sharpening about once a week. The letter complains of a canvas shelter and various commercial equipment and enclosed photographs showing commercial equipment and trailers. There is no signage or advertising on the trailers.

D. Ms. Donna King, Esq., appeared as Respondent Adler's attorney. Ms. King asked for dismissal of the Citation because no Correction Notice was issued. The Citation will not be dismissed because it falls within the criteria adopted for issuance of a Citation pursuant to County Code Section 3-6-205 (#4. Prior warning: If an inspector gave a prior verbal warning to correct a violation, and the warning was not followed, an inspector may issue an immediate citation.) The notes clearly show that Inspector Fisher spoke with Respondent Adler on April 1, 2009 and discussed the complaints and the applicable regulations.

E. Respondent Adler testified that he has a contractor's yard on Liberty Road where he stores his equipment and does maintenance work. His residential property covers nearly two acres and requires a tractor to cut the grass. He is doing a lot of work on the property and is using his landscaping business equipment and staff to do projects. His employees only come to his residential property to do work on the property. He is also doing renovations on the house, including a new kitchen and replacing windows. The wood piled on the property is the result of a tree falling on his car in early July 2009 and he is planning to use the wood for his wood stove. He agreed to review and follow County code requirements for stacking and elevating the wood.

F. Based on the evidence and testimony presented, Respondent Adler is not violating zoning restrictions by operating a business from his home. The commercial traffic observed is permissible because the vehicles and workers are at the location to work on Respondent's residence. In the same manner that Respondent would treat any residential customer of his landscaping business, any equipment or materials not needed for immediate use at the residence should be stored and maintained at Respondent's business location, to avoid future violations of County zoning regulations that prohibit a contractor's equipment storage yard from being located in a residential zone.

IT IS ORDERED by the Code Enforcement Hearing Officer that the Citation is DISMISSED.

ORDERED this 6th day of August 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer